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November 21, 2012

Ex Parte Filing

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: CC Docket No. 95-116; WC Docket No. 07-149; WC Docket No. 09-109

Dear Ms. Dortch:

I write on behalf of Neustar, Inc., in response to the November 16, 2012, submission of Ericsson, Inc. ("*Ericsson Nov. 16 Ex Parte*"). Ericsson advocates discarding neutrality standards proposed by the industry and taken from current Commission rules in favor of standards that are apparently designed to accommodate the interests of Ericsson and its major owners. Ericsson has failed to justify any such modification to the RFP Documents, which would put LNPA neutrality at risk. The Commission should reject Ericsson's proposal and permit the RFP process to proceed.

1. The current neutrality Code of Conduct was adopted by the Commission to ensure that numbering administration would be free of undue influence.¹ Those standards – which have applied since their adoption to the company serving as LNPA² – (1) prohibit the LNPA from showing preferences in the provision of numbering services; (2) ensure that users' proprietary

¹ See, e.g., Order, *Request of Lockheed Martin Corp. & Warburg, Pincus & Co. for Review of the Transfer of the Lockheed Martin Commc'ns Indus. Servs. Bus.*, 14 FCC Rcd 19792, App'x A (1999) ("*Warburg Transfer Order*").

² The NAPM LLC required Neustar to agree to the Code of Conduct adopted by the Commission in the *Warburg Transfer Order* as a condition of the transfer of the LNPA contracts from Lockheed Martin to Neustar.

information is fully protected from improper use and disclosure; and (3) impose safeguards to ensure that personnel do not have an incentive to promote the interests of any other entity with an interest in telecommunications numbering.

Ericsson has suggested that these safeguards were tailored for Neustar alone, because of the then-existing ownership interest of Warburg Pincus.³ As we have explained, however, although the proposed transfer to Warburg Pincus may have prompted the development of the Code of Conduct, the Code, as set out in the RFP, properly applies to any potential LNPA. Neustar has been an independent, publicly held company with no Warburg Pincus ownership for many years, yet it has been subject to the requirements of the Code of Conduct throughout that time – not just in its LNPA activities, but as a company.⁴

The concerns that motivated the Commission and the NAPM, LLC in 1999 have not become less relevant or significant, as the telecommunications industry has gotten more complex and interconnected. Neutrality concerns are pronounced in the case of Ericsson, which not only has a network of long-term contractual relationships with Telecommunications Carriers, but also is affiliated with two major Swedish investment funds, Investor AB and AB Industrivarden, which may themselves hold investments in communications companies either today or in the future.⁵ The Code of Conduct is designed to protect against the potential that affiliations and contractual relationships of this type might compromise the neutrality of the LNPA; Ericsson's proposal would significantly weaken those protections.

Specifically, Ericsson seeks to undermine the general neutrality principles embodied in the Commission's Code of Conduct, both with respect to information sharing and with respect to corporate governance:

- The Code of Conduct prevents sharing of data with any shareholder in the LNPA;⁶ Ericsson eliminates that restriction.

³ Letter of John T. Nakahata, Counsel to Ericsson, Inc., to Marlene H. Dortch, Secretary, FCC, Docket Nos. 95-116, 07-149 & 09-109, at 2 (Oct. 25, 2012).

⁴ Letter of Aaron M. Panner to Marlene H. Dortch, Secretary, Docket Nos. 95-116, 07-149 & 09-109, at 2-3 (Nov. 6, 2012).

⁵ According to public disclosures, Investor AB owns nearly 44 percent of Ericsson's Class A shares and 1.95 percent of its Class B shares, with more than 20 percent of the company's voting rights; AB Industrivarden owns over 30 percent of Ericsson's Class A shares with voting rights in excess of 14%. *See* Ericsson Annual Report 2011 filed with the Securities and Exchange Commission on April 4, 2012 (Form 20F).

⁶ The term "shareholder in the LNPA" does not include employees of the LNPA: at the time of the Warburg Transfer Order, Neustar was to be 28.1% owned by its employees. Were there room for confusion on this point, the proper remedy would be to clarify the provision, not to

- The Code of Conduct prevents any shareholder in the LNPA from sharing user data with the LNPA; Ericsson eliminates that restriction.
- The Code of Conduct prevents persons employed by or serving in the management of LNPA shareholders from being involved with the day-to-day operations of the LNPA;⁷ Ericsson eliminates that restriction.
- The Code of Conduct prevents employees of any TSP from being employed by the LNPA; Ericsson eliminates that restriction – a point of special concern given that thousands of TSP employees are apparently seconded to Ericsson through its network management contracts.
- The Code of Conduct bars members of the LNPA’s board of directors from serving on the board of a TSP; Ericsson eliminates that restriction.
- The Code of Conduct bars any entity that cannot pass Neutrality from controlling more than 40 percent of the LNPA’s Board of Directors; Ericsson eliminates that restriction.

In place of those strict safeguards, which have served the industry successfully since the Code of Conduct was first adopted, Ericsson proposes no restriction on the intertwining of TSP and LNPA management and directorships so long as the individuals in question are not “directly involved in LNPA services,” whatever that may mean.⁸ Ericsson’s proposal leaves open the question whether upper level executives and members of a company’s Board of Directors without direct access to the LNP systems are “directly involved in LNPA services,” but the Code of Conduct was designed to prevent undue influence exerted from the top down in a company – something that Ericsson’s proposal ignores. Ericsson’s flimsy restrictions would offer little protection.⁹

Ericsson never explains why it has eliminated these neutrality safeguards from the Code of Conduct – other than its claim of concern with “incidental services” like “cleaning services,”

eliminate it. The sharing of information with shareholders of the LNPA – and their potential involvement with company operations – remains a concern because such shareholders may be or become Telecommunications Carrier affiliates.

⁷ Contrary to the assertion of Ericsson in its comments, this provision does not apply to employees of the LNPA and does not act as a bar to employee stock ownership. *See supra* n.6.

⁸ Ericsson’s suggestion that an employee with a neutrality conflict can alleviate that conflict by obtaining prior FCC approval or voluntarily recusing himself or herself from participating in LNPA activities places an unreasonable burden on the Commission and provides insufficient protection for service providers that rely on, and must have confidence in, the neutrality of the LNPA.

⁹ Ericsson also seeks to modify a provision of the Code of Conduct related to the financial and other interests of LNPA employees, but its proposal is less clear than the existing version and would create operational complexities.

Ericsson Nov. 16 Ex Parte at 1, which cannot be taken seriously in light of the significant substantive issues raised by Ericsson's proposed modifications. In any event, the Commission has no record basis for overriding the industry's considered requirements for LNPA neutrality – particularly in light of the fact that the requirements are taken from a Code of Conduct adopted by the Commission itself.

2. As we pointed out in our recent letter, Ericsson's belated submission of proposals that would make significant changes to the RFP Documents as proposed by the industry and the NANC comes far too late to permit the Commission to evaluate those proposals on a full record.¹⁰ The Commission should approve the RFP Documents and allow the experts fully to evaluate competing bids and prepare a recommendation for the Commission's consideration. Further delay is unwarranted.

In particular, Ericsson's claim that its most recent proposed changes are required to encourage broader participation in the RFP is contrary to the record. All parties – the industry, state regulators, and consumers – support the RFP Documents as drafted; the RFP Documents have attracted unanimous support precisely because they are designed to promote rigorous competition. Notwithstanding Ericsson's repeated efforts to delay and undermine the consensus process, the record reflects nothing but support for that process from any party other than Ericsson. There is no responsible argument for allowing Ericsson to rewrite the RFP Documents solely to favor Ericsson's individual interest.

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¹⁰ See Letter of Aaron M. Panner to Marlene H. Dortch, Secretary, Docket Nos. 95-116, 07-149 & 09-109, at 3 (Nov. 16, 2012).

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If you have any questions concerning this matter, please contact me at (202) 326-7921.

Sincerely,

A handwritten signature in cursive script that reads "Aaron M. Panner".

Aaron M. Panner *B.M.H.*
Counsel for Neustar, Inc.

cc: Neil Dellar
William Dever
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